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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (ab = Assembly Bill) (ar = Assembly Resolution) (ajr = Assembly Joint Resolution)
 - (sb = Senate Bill) (sr = Senate Resolution) (sjr = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)

Senate

Record of Committee Proceedings

Committee on Environment

Senate Bill 126

Relating to: changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

By Senators Miller, Kedzie, Harsdorf, Holperin, Cowles, Lehman, Risser, Plale, Taylor, Schultz, Erpenbach, Olsen and Lassa; cosponsored by Representatives Clark, Tauchen, Hebl, Berceau, Roys, Smith, Townsend, A. Ott, Molepske Jr., Richards, Pope-Roberts, Sinicki, Lothian, Bernard Schaber, Jorgensen, Ripp and Parisi.

March 18, 2009 Referred to Committee on Environment.

April 14, 2009 **PUBLIC HEARING HELD**

Present: (4) Senators Miller, Jauch, Wirch and Kedzie.
Absent: (1) Senator Olsen.

Appearances For

- Mark Miller, Monona — Senator, 16th Senate District
- Neal Kedzie, Elkhorn — Senator, 11th Senate District
- Fred Clark, Baraboo — Representative, 42nd Assembly District
- Mark McDermid, Madison — Department of Natural Resources
- Rolf Wegenke, Madison — Wisconsin Association of Independant Colleges & Universities
- Scott Manley, Madison — Wisconsin Manufacturers & Commerce
- Lori Grant, Madison — River Alliance of Wisconsin
- Steve Hiniker, Madison — 1000 Friends of Wisconsin
- John Imes, Madison — Himself
- Patrick Stevens, Madison — Wisconsin Builders Association

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- George Meyer, Madison — Wisconsin Wildlife Federation
- Lisa Conley, Oconomowoc — Town & County Resource Conservation & Development

Registrations Against

- None.

Registrations for Information Only

- Jim Connors, Madison — Sierra Club

April 22, 2009

EXECUTIVE SESSION HELD

Present: (5) Senators Miller, Jauch, Wirch, Kedzie and Olsen.

Absent: (0) None.

Moved by Senator Kedzie, seconded by Senator Jauch that **Senate Bill 126** be recommended for passage.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Olsen.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 5, Noes 0

Elizabeth Bier
Committee Clerk

Vote Record Committee on Environment

Date: 4/22/09

Moved by: Kedzie

Seconded by: Jauch

AB _____ SB 126 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Mark Miller, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Jauch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

MILLER CO-SPONSORSHIPS

LRB 0139/1 Green Tier Reauthorization

Senate Co-Authors:

Miller

Kedzie

Hausdorf (Matt, call)

Holperin (email, 3/4)

Cowles (email, 3/4)

Lehman (email, 3/5)

Risser (wes 3/9)

Plale (Katie 3/10)

Taylor (eric, 3/12)

Schultz (Eileen, 3/12)

Erp (T. 3/12)

Olson (David, 3/12)

Assembly Co-Sponsors:

Clark

Tauchen

Hebl

Berscane (email, 3/4)

Roy (email, 3/4)

Smith

Townsend

OH, A

Molepske (Lloyd, 3/11)

Richards (Clark)

Pope-Roberts (Clark)

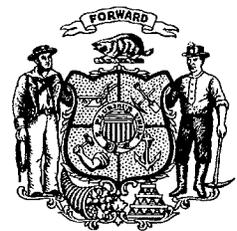
Sinicki (Clark)

Lottman (Clark)

Bernard Schalser (Stephanie)

Jorgensen

Ripp



MICHAEL BEST

& FRIEDRICH LLP

MEMORANDUM

TO: Committee on Environment
FROM: Linda H. Bochert, Michael Best & Friedrich LLP
DATE: April 9, 2009
SUBJECT: Senate Bill 126

Thank you Chair Miller and members of the Senate Committee on Environment for the opportunity to submit written testimony in support of Senate Bill 126. This legislation makes valuable improvements to two important environmental initiatives: the Environmental Compliance Audit program (a/k/a the Environmental Improvement Program) and the Green Tier program (a/k/a the Environmental Results Program). The modifications included in Senate Bill 126 are limited and designed to improve these already effective programs. Most importantly, Senate Bill 126 eliminates the sunset provisions from both programs so that they will continue to function and deliver benefits to the environment and citizens of Wisconsin.

As a member of the Green Tier Advisors to the Wisconsin Department of Natural Resources (WDNR), I am currently working with WDNR staff and the other Advisors to advance and improve the goals of these two important programs. Before going into private law practice, I was privileged to serve with WDNR and the Wisconsin Department of Justice for 17 years in various environmental legal and management roles. My professional experience has taught me that the environment is best served by creative approaches to environmental improvement based upon collaboration rather than command and control. The work I have done with clients has convinced me that an atmosphere that encourages the conduct of audits to find and correct deficiencies will prevent many more problems than one that makes people afraid to look because of the potential penalties they may face if they find something.

Because of my professional experience, I fully support the Environmental Compliance Audit Program which encourages regulated entities to conduct environmental audits and correct the deficiencies they identify. Modeled in large part on the Environmental Protection Agency's Audit Policy, the Environmental Compliance Audit Program removes the risk of significant financial penalties, thus facilitating the conduct of audits and the resulting environmental improvements. The Environmental Compliance Audit program is the foundation of an innovative environmental compliance audit program currently underway on 16 of the private college and university campuses in Wisconsin, under the leadership of the Wisconsin Association of Independent Colleges and Universities (WAICU). I commend WDNR staff for their support of the WAICU-led effort, and I understand the Committee will receive testimony from WAICU President Wegenke in support of Senate Bill 126, who can tell you more about this initiative.

The Green Tier program promotes and rewards "superior environmental performance" by regulated entities ranging from manufacturers and developers to municipalities and agribusiness. Green Tier's focus on continuous improvement and use of environmental management systems has incentivized positive environmental outcomes. This program's

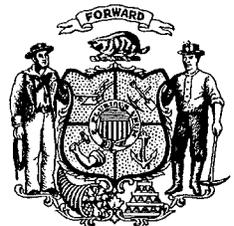
emphasis on collaboration and innovation enables companies to address their environmental impacts in creative ways that contribute to the bottom line and earn them appropriate public trust and recognition. In these challenging economic times, when private sector resources are stretched to the limit and government resources are increasingly scarce, having a program in place that emphasizes re-thinking how we do things so we can do them better and more effectively deserves support.

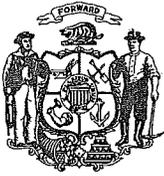
For the reasons described, I respectfully urge your full support for passage of Senate Bill 126. Thank you very much for your attention to this important matter, and please do not hesitate to contact me should you have any questions.

Q:\FIRM\099999\3246\B1767970.1



WISCONSIN STATE LEGISLATURE





Public Hearing

Senate C. on Environment

Tuesday, April 14, 2009

10:00am, Rm. 300 SE

Testimony – SB 126 *Green Tier Reauthorization*

I am happy to be here today with Senator Miller and Senator Kedzie to speak in favor of SB 126, which reauthorizes the Environmental Results Program, now known as Green Tier.

Senator Miller provided background on the history of the Environmental results Program – now Green Tier. The Green Tier program complements our states necessary regulatory role in protecting the environment with an effort that focuses on voluntary participation, recognition of superior performance, innovative approaches, collaborative partnerships, and continuous process improvement. The heart of Green Tier is the adoption of Environmental Management Systems by participating companies that guide them through a 4 step process of evaluation and planning, implementing improvements, monitoring results, and adjusting practices based on new information.

SB 126 calls for re-authorization, fine tuning, and expansion of the Environmental Results Program in order to accomplish three objectives:

- Create higher levels of environmental performance with increased numbers of participants delivering superior environmental performance, and realizing increased business value through recognition and flexibility.
- Create certainty about the future of the program and the requirements of the program while updating provisions of the law to reflect changes in standards and practice since the law's original passage.
- Improve the administrative efficiency of the program so that more staff resources can be directed to working with prospects for and participants in the program.

It is worth noting that due to the cooperative and innovative work that has been done by the Department, partners and participants in the original Environmental Cooperation Pilot Program, all of the original participants have exercised their option for renewal of the agreements.

An especially valuable provision has been added in this legislation to expand the potential use of and value derived from “charters”, or associations of businesses, municipalities or other entities cooperating together under Green Tier to achieve improved environmental performance. The provisions to allow charters allows us to address broad environmental problems that in many cases cannot be effectively addressed by a single entity acting alone.

The Green Tier Program brings in a diverse range of businesses and institutions that reflect that diversity of Wisconsin’s economy. Current Green Tier partners include:

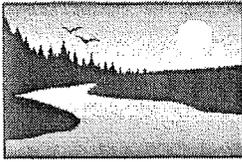
- American Transmission Company
- Roundy’s Supermarkets
- Edgewood College
- The Boldt Company
- Kimberly Clark
- Veolia ES Technical Solutions
- 15 Municipalities under the Mercury Green Tier Charter

As businesses, municipalities, universities and other organizations have found consistently that improving environmental performance is not only good for the environment, its good for the public and its good for businesses. Nobody wants to be in the business of purchasing materials that end up in the environment. The Green Tier Program is a powerful tool for Wisconsin to support better business and a cleaner environment. I hope you will join me in supporting SB 126 and re-authorizing the Environmental Results Program.



WISCONSIN STATE LEGISLATURE





RIVER ALLIANCE of Wisconsin

April 14, 2009

Senator Mark Miller, Chair, Senate Committee on the Environment
Members of the Senate Committee on the Environment
201 Southeast
State Capitol

RE: SB 126, Reauthorization of the Green Tier Program

Dear Senator Miller and Members of the Senate Committee on the Environment:

The River Alliance of Wisconsin is a non-profit, non-partisan organization representing over 3000 members and supporting over 150 watershed groups around the state. We advocate for the protection and restoration of the state's flowing waters.

Stormwater runoff, from agricultural lands, urban areas and construction sites continues to be the primary source of pollution to rivers and other surface waters in the state. Finding ways to reduce stormwater runoff pollution remains one of the primary goals of the River Alliance. There are two current Green Tier charters focused on reducing stormwater runoff, the Dairy Business Association-Green Tier Advancement Program addressing agricultural runoff, and the Clear Waters charter in Dane County. I participate in both charters, and am a member of the Interested Persons Group formed to advise the Dairy Business Association charter.

While the Dairy Business Association charter is just getting underway, the Clear Waters Charter is showing progress. Veridian Homes has taken a series of steps to reduce erosion and runoff during construction of single family homes, a primary source of sediments in our waterways. I look forward to seeing concrete results from other Green Tier participants, especially in the reduction of stormwater pollution.

The Green Tier program is an opportunity to complement, not replace the current regulatory programs, for those businesses and industries truly committed to improving their environmental performance, and therefore I support reauthorization of the Green Tier program through SB 126. The program is also an opportunity to dispel the myth that what's good for the environment can't be good for business, and I support the revisions to the legislation that encourage participation, both in the Green Tier and the environmental compliance audit program.

One of the recommendations of the Green Tier Advisors carried forward in SB 126 encourages the participation by "interested persons" in both developing and implementing Green Tier contracts (ss 299.83(6)(a)). As an "interested person" in the

Dairy Business Association charter, I believe outside parties provide a valuable role in the process, and support the bill language as written.

As the skeptical environmentalist, I believe DNR has managed the Green Tier Program to ensure my initial fears – that businesses may use the program to backslide – have been quelled. I am optimistic the Green Tier program can enhance environmental performance, and is one more tool in the box to a cleaner Wisconsin.

Sincerely,

Lori Grant
Water Policy Program Manager



WISCONSIN STATE LEGISLATURE





16 North Carroll Street Suite 810 Madison, WI 53703 phone: 608.259.1000 fax: 608.259.1621
email: friends@1kfriends.org www.1kfriends.org

Hearing on **SB 126**, relating to changes to and extension of the Environmental Results Program.

Senate Committee on the Environment

April 14, 2009

Testimony of Stephen Hiniker Executive Director of 1000 Friends of Wisconsin

Thank you, Senator Miller and Committee members, for the opportunity to provide testimony regarding SB 126, the reauthorization of the Green Tier program. 1000 Friends of Wisconsin is pleased to offer its support for SB 126.

We want to take time to thank Senator Miller and Mr. Mark McDermid, the Green Tier program administrator, for all of the outreach efforts directed towards the NGO community. You have provided us with ample opportunities to provide input and to get a better understanding of program. Those efforts have helped to make this program successful.

We support the Green Tier program and we feel that it has the potential to reach constituencies beyond its current audience. We are currently working with broad range of stakeholders to devise a Green Tier Charter that will provide a framework for municipal sustainability programs. Our goal is to provide a state sanctioned, voluntary program that establishes best policies for municipal operations with high standards for environmental performance. We want communities to be able to opt into the program and set goals for environmental improvement and to be able to quantify their superior performance. In exchange, communities will be able to have certain benefits from the state for their participation in the program and the ability to advertise their achievements with a state sponsored "green" label.

The Green Tier program has allowed us to collaborate with a broad range of stakeholders to generate support for the creation of this sustainability program. We have been able to bring together builders, realtors, environmental advocates, municipal leaders, utilities and business leaders to devise a program that promises to bring a heightened environmental awareness and a commitment to protecting the environment from participating communities. Wisconsin Department of Natural Resources staff, including the Green Tier program staff, have been innovative, creative and supportive of our efforts in this program.

Our Green Tier proposal gives us the opportunity to take the recommendations of the Governor's Global Warming and translate them into local policies. We feel that without Green Tier, we would be severely disadvantaged in implementing the non-statutory recommendations of the Governor's Task Force. The Green Tier program gives us the chance to create a charter that will be of national significance.

Again, thank you for your efforts on behalf of the Green Tier program. We offer you our support for the reauthorization of this program.



WISCONSIN STATE LEGISLATURE





State Senator

Neal J. Kedzie

11th Senate District
Senate Committee on Environment

Testimony of Senator Neal Kedzie

Senate Bill 126

April 14, 2009

Thank you Mr. Chairman and Committee members for allowing me to speak in favor of Senate Bill 126, which seeks to re-authorize and make permanent, the Wisconsin Green Tier Program.

Before I begin my testimony, I would like to personally thank Senator Mark Miller for authoring this new bill, as we have worked very closely on this and many other important environmental issues during our time here in the Legislature.

I would also like to thank the staff with the Department of Natural Resources for their work on this bill and program, particularly Mark McDermid, who over the years has championed this program and performed yeoman's work to ensure the pilot program will soon become a permanent program.

Finally, I would like to extend my sincere appreciation to the members of the Green Tier Advisory Committee who worked for many months on this particular bill to produce a consensus document that maintains our shared goal of environmental protection, economic development, and regulatory reform.

As the original author of the 2003 Green Tier Act, it has been a privilege to be a part of a new and innovative program in Wisconsin that has reshaped the relationship between the regulators and the regulated.

The Green Tier Act was established as a five year pilot program to create a multi-level program of providing incentives to businesses, and other regulated entities, to conduct comprehensive environmental audits of its operations and facilities.

In addition, the Green Tier Act laid the foundation for a cooperative partnership between the DNR and the business community in order to report and rectify any violations that may be found as a result of those audits.

The Green Tier Act, and now the Green Tier Reauthorization Act, provides a mechanism for small and medium businesses to come into and maintain compliance with Wisconsin law, creates an expanded program for larger businesses that wish to exceed traditional environmental standards, and offers additional regulatory flexibility as an incentive for going above and beyond compliance.

In my opinion, the Green Tier program has been a true environmental and economic success story in Wisconsin. And, quite frankly, I am not alone in that opinion.

In March of 2006, the Wisconsin Green Tier program was nominated for the prestigious 'Innovations in American Government' Award, through the Ash Institute for Democratic Governance and Innovation at the Harvard University John F. Kennedy School of Government.

The Green Tier program was among the top finalists for this award, and although it did not win, "it was honor just to be nominated", as the saying goes.

The Green Tier program explores the potential for businesses and regulators to work together as a team to protect our natural resources.

For 'good actor' companies with solid environmental management systems and proven track records of improvements, permit approval times are reduced, recordkeeping is made easier, and innovations are encouraged.

The Green Tier program is about getting away from the crippling affects that come with a "command and control" approach to regulation. It's about finding new ways to generate economic growth while maintaining a common principle to protect and preserve our environment.

Now more than ever, Wisconsin needs to be competitive with other states, which can be achieved through regulatory reform.

Often we hear of businesses being taxed out of Wisconsin, but little of how they're being regulated out of Wisconsin. Green Tier is a significant step in addressing that concerns by creating a more user-friendly relationship with the DNR and a new regulatory option for business leaders to consider.

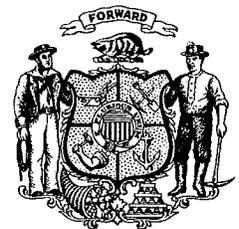
Again, thank you Mr. Chairman and Committee members for your consideration and review of Senate Bill 126.

I hope you consider the merits of the bill and the program, the efforts that have gone into crafting this legislation, and act expeditiously to reauthorize the Green Tier program and allow it to create more chapters in its environmental and economic success story.

I am happy to answer any questions you may have.



WISCONSIN STATE LEGISLATURE





TO: Senate Committee on Environment

FROM: Scott Manley, Environmental Policy Director

DATE: April 14, 2009

RE: Senate Bill 126 - Green Tier & Environmental Compliance Audit Reauthorization

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to express our support for Senate Bill 126, which would reauthorize and make programmatic improvements to the Green Tier and Environmental Compliance Audit programs.

WMC is the state's largest business trade association, with over 4,000 members in the manufacturing, service, health care, retail, energy, banking, insurance and other service sectors of our economy. WMC is dedicated to making Wisconsin the most competitive state to do business in the nation, and toward that goal, we support consistent, cost-effective and market-driven regulatory approaches that recognize a balance between environmental protection and the competitiveness of Wisconsin's jobs and economy.

The Green Tier and Environmental Compliance Audit programs have proven to be mutually beneficial to the Department of Natural Resources (DNR) and the business community in that these laws have enhanced environmental compliance, environmental performance and environmental protection. WMC supported the enactment of these important laws in 2004, and believes it is critical that the legislature reauthorize these programs to allow their important work to continue. We also believe the programmatic changes proposed to both Green Tier and the Environmental Compliance Audit program will allow the DNR to more efficiently administer these programs, and will ultimately lead to a greater level of participation by the regulated community.

WMC respectfully requests your consideration of a number of minor changes to Senate Bill 126, which are attached for your review. In particular, we ask for your support for deleting the change in Section 20 of the bill, which requires Green Tier applicants to describe how interested persons will be involved in implementing Green Tier agreements. While WMC member companies generally support the involvement of interested third parties in the development of agreements, and continued involvement during the term of the participation contract, placing third parties in an implementation role is not appropriate. Green Tier agreements are a contractual obligation between a business and the DNR. The execution and implementation of that contract should therefore be limited only to the Green Tier participant.

Thank you for your thoughtful consideration of our support for Senate Bill 126, as well as the suggested amendments to the bill. Please feel free to contact me if you have any questions, or if I can provide you with additional information, at (608) 258-3400 or smanley@wmc.org.

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Senate Bill 126 - Green Tier Reauthorization

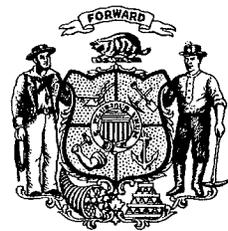
Suggested Amendments

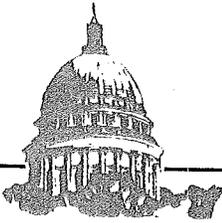
299.83 (1) (dg.) (intro.) “Functionally equivalent environmental management system” means an environmental management system that is appropriate to the nature, scale, and environmental impacts of an entity’s activities, products, and services and or that includes all of the following elements and any other elements that the department determines are essential elements due to changes in the of International Organization for Standardization standard 14001:

299.83 (6) (a) 1. Describe the involvement of interested persons in developing and implementing the proposal for maintaining and improving the applicant’s superior environmental performance, identify the interested persons, and describe the interests that those persons have in the applicant’s participation in the program.

(jm) Participation contract. 1. In a participation contract, the department shall require that the participant maintain the environmental management system described in sub. (5) (c) 1. and abide by the commitments in sub. (5) (c) 2. and 3. The department shall include in a participation contract a provision that describes how the participant will attempt to maintain the involvement of interested parties during the term of the participation contract. The department may not reduce the frequency of required inspections or monitoring as an incentive in a participation contract if the audit under sub. (5) (c) 3. is conducted by a person other than an outside environmental auditor. The department shall ensure that the incentives provided under a participation contract are proportional to the environmental benefits that will be provided by the participant under the participation contract. The department shall include in a participation contract remedies that apply if a party fails to comply with the participation contract.

WMC supports 3rd party involvement,
but less than,





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Testimony before Senate Environment Committee

April 14, 2009
Senate Bill 126

I am happy to be here today with Sen. Kedzie, Rep. Clark and Rep. Tauchen to speak in favor of SB 126 which reauthorizes the Green Tier program. (Environmental Results Program)

Green Tier is based on a collaborative system of contracts and charters crafted jointly by participating businesses and the DNR. These contracts and charters streamline environmental requirements in many cases and encourage new environmental technologies

Green Tier was initially authorized for a 5 year period which ends in July of 2009. In the past 5 years, Green Tier has proved itself to be an innovative and successful program, achieving superior environmental results, warranting the removal of that sunset date.

A Green Tier Advisory committee was created as part of the original legislation. That committee has been working with the Green Tier program since the beginning and has developed a set of legislative recommendations for program improvements. This bill is based on the recommendations of the Green Tier Advisors.

The legislation does the following:

- Removes the sunset dates for both Green Tier and the Compliance Audit Program
- Formally changes the names of the Environmental Results Program and Environmental Improvement Program to their common names of Green Tier and Environmental Compliance Audit Program
- Allows for smooth transitions for companies participating in the Environmental Cooperation Pilot Program (Green Tier's predecessor) to Tier 2 status
- Allows for reporting of violations that are discovered through a company's environmental management system, not just through an annual audit
- Allows the Department to issue a charter to an association of entities that are not yet in Green Tier to either facilitate entry to the program or take actions to achieve superior environmental performance
- Makes various technical changes recommended by the Green Tier advisors

- Provides a predictable set of procedures for companies to assess their state of compliance, disclose the potential violations and establish a set of responsible steps to gain compliance and maintain that compliance
- Provides an opportunity for proactive relationships between DNR and entities that normally would not have routine interaction with the department
- Successfully piloted the Wisconsin Environmental Results Program (ERP) for Printers utilizing the process under 299.85 to defer civil enforcement for industry sector eligible participants. The process also resulted in printer adopting practices to go beyond compliance i.e. this tool has been and will continue to be used to achieve beyond compliance strategies
- Successfully negotiated a memorandum of agreement with the Wisconsin association of Independent Colleges and Universities to conduct voluntary compliance audits at 16 Wisconsin colleges and universities, places that DNR has not been for routine inspections. Like the Printers project above this too has a beyond compliance component in the execution of the agreement which is already under development.
- At no time since the implementation of the compliance audit portion of the law has anyone from the Sierra Club asked for information about the implementation of the law, asked for supplementary information for the annual reports that have been done under the law or asked to see the files which state the disclosed violations, all of which are public records
- Under the law the annual report specifically identifies violations which fall into the categories enumerated in the law. These categories were specifically requested by members of the environmental community when the original bill was passed so that, as they explained at the time, they would not be burdened by additional detail. All categories requested were inserted in the bill and signed into law.
- 90 days was selected so that there was reduced burden from a notice, process and engagement standpoint. If something was found and corrected quickly, that was a shared goal and the benefit to all parties was not expending additional time in administrative processes on what was already solved.
- The original law contained effective safeguards to protect against those who would do harm to the environment and repetitively ignore environmental requirements. Those protections have been used during the last 4 and half years and will continue to be in place in the new law.
- The actual experience with the look behind provisions in the law is that we have not been able to engage companies who have made one mistake to look at their whole company to uncover where other problems may exist. If they do find serious problems that harm public health and the environment, they are still subject to prosecution under the law. If they find conditions if unaddressed could to harm, they can correct them. We prevent people from effectively taking full responsibility at the time that they may be best positioned to do so.
- Stepped enforcement is as asserted, available. Companies are largely unwilling to engage and disclose without certainty. Correspondingly stepped enforcement does not have the measure of transparency that goes with the compliance audit portion of the law. Under 299.85 the activity is reported as specified in the law and summarized in a way that can be easily accessed. All request for information about the process and about specific disclosures have been answered. Disclosures cover all programs in one location not having to go through multiple program offices.
- The federal program for self disclosure – accepted across the nation is actually less stringent in both the entry requirements and the exclusions than are the exclusions under this law. While we are more restrictive, we are more predictable and more responsive (incentives to get problems corrected quickly) than our federal counterparts